

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, . Case No. 1:09-cr-147
Plaintiff, .
- v - .
FRANK G. LARSON, . Tuesday, October 13, 2009
Defendant. . 10:00 AM
Cincinnati, Ohio
.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE HERMAN J. WEBER, SENIOR JUDGE

For the Plaintiff: KEVIN C. CULUM, ESQ.
MACHELLE L. JINDRA, ESQ.
United States Department of Justice
Antitrust Division
Carl B. Stokes U.S. Court House
801 West Superior Avenue, 14th Floor
Cleveland, Ohio 44113-1857

For the Defendant: WILLIAM MICHAEL, JR., ESQ.
Dorsey & Whitney LLP
50 South Sixth Street
Suite 1500
Minneapolis, Minnesota 55402-1498

Also present: Laurie Cooke, Pretrial Services
Laura S. Jensen, Probation Officer

Law Clerk: Amy Peters Thomas, Esq.

Courtroom Deputy: Darlene Maury

Court Reporter: Luke T. Lavin, RDR, CRR
838 Potter Stewart U.S. Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202

PROCEEDINGS

(In open court at 10:00 AM.)

THE COURT: Proceed, Ms. Maury.

COURTROOM DEPUTY: Judge, on the docket this morning is Criminal Action 09-147, United States of America versus Frank G. Larson. Appearing on behalf of the government is Kevin Culum and Machelle Jindra. Appearing on behalf of the defense is William Michael, and the defendant is present in the courtroom.

THE COURT: Mr. Michael, will you introduce yourself to the Court and explain your presence.

MR. MICHAEL: Yes, Judge.

Thank you, Your Honor. Good morning. My name is William Michael. I represent Mr. Larson. Your Honor, first I would just point out that I have not yet been able to file the pro hac vice papers. We're waiting on the certificates of good standing from the states of Florida and Minnesota. I would represent to the Court that I am in good standing in both of those states.

Mr. Larson is present and has read through the paperwork and is ready to proceed, Your Honor.

THE COURT: Let's see. Are you admitted to a district court somewhere?

MR. MICHAEL: I am, Judge. I'm admitted to the District Court of Minnesota. I've also appeared in the

1 Southern District of New York, the Eastern District of New
2 York, the Southern District of Florida, the District of North
3 Dakota, the District of Utah, the Northern District of
4 California, and several states and perhaps other districts.

5 THE COURT: Well, I appreciate that. That gives me a
6 little solace.

7 MR. MICHAEL: All right.

8 THE COURT: Thank you.

9 MR. MICHAEL: And I apologize, Judge, for the
10 paperwork not being in on time.

11 THE COURT: All right.

12 Let's see. Are you Frank G. Larson, sir?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Are you the defendant in this case?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Are you represented by a lawyer?

17 THE DEFENDANT: Yes, I am.

18 THE COURT: And what's your lawyer's name?

19 THE WITNESS: Bill Michael.

20 THE COURT: Mr. Michael, have you explained to Mr.
21 Larson his rights to have this matter considered by the grand
22 jury?

23 MR. MICHAEL: I have, Judge.

24 THE COURT: And do you have any advice for him in that
25 regard?

1 MR. MICHAEL: I do, Judge. We have agreed to waive
2 the indictment. We have the forms here ready to be signed to
3 waive indictment by a grand jury and to allow the United States
4 Department of Justice to proceed by way of Information on this
5 count.

6 THE COURT: And do you feel the client's acting in his
7 best interest in proceeding in this manner?

8 MR. MICHAEL: I do, Judge.

9 THE COURT: Thank you.

10 Mr. Larson, I want you to please understand that by waiving
11 your right to have the matter considered by the grand jury,
12 you're not giving up any of your other constitutional rights.
13 You have a right to plead not guilty, be tried by a jury, be
14 represented by a lawyer throughout the proceedings, face the
15 prosecution witnesses, compel witnesses to attend and testify
16 in your behalf, and the United States must prove to a jury of
17 12 individuals beyond a reasonable doubt certain things that
18 you are guilty of this crime. And you can't be put on trial
19 here in this court unless you decide to waive your right to
20 have a grand jury consider the case.

21 Now, in order so that I can be assured that you know what
22 is charged, it's necessary that, I believe, at this time that
23 we read together the Information.

24 And in that regard, Mr. Culum, do you have a motion to
25 make?

1 MR. CULUM: Yes, Your Honor. I would like to file a
2 motion to unseal the Information and all papers along with it.

3 And any other motion I need to file?

4 THE COURT: That's the magic motion.

5 MR. CULUM: Okay. I earlier gave it to Darlene.

6 THE COURT: I had it in front of me. I just wanted to
7 see what you were up to.

8 The Court has ordered the unsealing of the documents, and
9 they're all a matter now of public record as we go through this
10 matter.

11 MR. CULUM: Thank you, Your Honor.

12 THE COURT: And if you would please present to the
13 record the Information at this time.

14 MR. CULUM: Thank you, Your Honor.

15 THE COURT: And, Mr. Larson, please listen as he does
16 so. I may ask some questions about it. And if you have any
17 questions during this proceedings, please ask them; ask them
18 directly of me. And if you're concerned about addressing me
19 directly, ask Mr. Michael, and he'll be glad to address me on
20 your behalf.

21 THE DEFENDANT: Okay.

22 THE COURT: Because it's most important that you and I
23 understand what's going on here, and that's why it's necessary
24 that I be assured that you do understand.

25 THE DEFENDANT: Okay.

1 THE COURT: Proceed, sir.

2 MR. CULUM: Thank you, Your Honor.

3 May I sit while I read?

4 THE COURT: Go ahead.

5 MR. CULUM: Okay.

6 The Information is entitled "United States of America v.
7 Frank Larson." It is entitled also a "Conspiracy To Restrain
8 Trade," in violation of 15 U.S.C. Section 1.

9 The United States of America, acting through its attorney,
10 charges:

11 Paragraph 1. Frank G. Larson is hereby made a defendant on
12 the charge stated below.

13 Paragraph 2. Beginning at least as early as March 1st,
14 2005, and continuing until at least July 17th, 2007, the exact
15 dates being unknown to the United States, the defendant and
16 co-conspirators entered into and engaged in a conspiracy to
17 suppress and eliminate competition by allocating packaged-ice
18 customers in southeastern Michigan and the Detroit, Michigan,
19 metropolitan area. The charged conspiracy unreasonably
20 restrained interstate trade and commerce, in violation of
21 Section 1 of the Sherman Act, 15 U.S.C. Section 1.

22 Paragraph 3. The charged conspiracy consisted of a
23 continuing agreement, understanding and concert of action among
24 the defendant and co-conspirators, the substantial terms of
25 which were to allocate packaged-ice customers in southeastern

1 Michigan and the Detroit, Michigan, metropolitan area.

2 Subheading II, the Means And Methods Of The Conspiracy.

3 Paragraph 4. For the purposes of forming and carrying out
4 the charged conspiracy, the defendant and co-conspirators did
5 the following things, among others:

6 (a) participated in conversations to discuss packaged-ice
7 customers in southeastern Michigan and the Detroit, Michigan,
8 metropolitan area;

9 (b) agreed during those conversations to allocate packaged-
10 ice customers in southeastern Michigan and the Detroit,
11 Michigan, metropolitan area;

12 (c) exchanged information during those conversations for
13 the purpose of monitoring and enforcing adherence to the
14 agreements to allocate customers in southeastern Michigan and
15 the Detroit, Michigan, metropolitan area; and

16 (d) refrained from competing for packaged-ice customers
17 that were so allocated.

18 III. Defendant And Co-Conspirators.

19 Paragraph 5. During the period covered by this
20 Information, the defendant was employed by Artic Glacier
21 International Inc., which will be referred to as Artic Glacier,
22 a corporation organized and existing under the laws of the
23 state of Delaware, which does business in multiple states, with
24 its principal place of business in St. Paul, Minnesota. During
25 the period, the defendant was most recently employed by Artic

1 Glacier as its executive vice president of operations.

2 Paragraph 6. Various individuals and corporations, not
3 made defendants in this Information, participated as
4 co-conspirators in the offense charged and performed acts and
5 made statements in furtherance of it.

6 Paragraph -- or subpoint IV, Trade And Commerce.

7 Paragraph 7. During the period covered by this
8 Information, the defendant's employer and its co-conspirators:
9 (1) manufactured packaged ice; (2) distributed packaged ice to
10 retailers in southeastern Michigan and the Detroit, Michigan,
11 metropolitan area; and (3) caused packaged ice to be purchased
12 from, sold to, or distributed from or to individuals or
13 companies located inside and outside of southeastern Michigan
14 and the Detroit, Michigan, metropolitan area.

15 Paragraph 8. During the period covered by this
16 Information, substantial quantities of packaged ice
17 manufactured and sold by the defendant was shipped across state
18 lines in a continuous and uninterrupted flow of interstate
19 trade and commerce.

20 9. The business activities of the defendant and
21 co-conspirators that are subject of this Information were
22 within the flow of, and substantially affected, interstate
23 trade and commerce.

24 Venue.

25 Paragraph 10. The conspiracy charged in this Information

1 was formed and carried out within the Southern District of
2 Ohio, Western Division. At least one of the conspiratorial
3 discussions described above took place in Cincinnati, Ohio,
4 which is located within the Southern District of Ohio. Acts in
5 furtherance of this conspiracy were carried out within the five
6 years preceding the filing of this Information.

7 All in violation of Title 15, United States Code, Section
8 1.

9 And the Information is signed by the assistant attorney
10 general, the deputy assistant attorney general, the director of
11 criminal enforcement, the chief of our office, and myself.

12 THE COURT: Mr. Michael, have you explained to your
13 client this Information and the charge contained therein?

14 MR. MICHAEL: I have, Judge.

15 THE COURT: Do you have any questions about this
16 proceeding at this time? And all we're talking about now is
17 whether you will present your case to a grand jury.

18 THE DEFENDANT: I don't have any questions.

19 THE COURT: All right. If it is your desire -- and do
20 you have any questions about the Information?

21 THE DEFENDANT: No.

22 THE COURT: If it's your desire to give up your right
23 to have the matter go immediately before this Court and give up
24 your right to waive the consideration by the grand jury, you
25 may sign the written waiver that's there before you.

1 And please explain it to him, Mr. Michael.

2 MR. MICHAEL: Yes, Judge. We have previously.

3 THE COURT: Let the record show the trial judge
4 observes the defendant signing the document here in open court.

5 MR. MICHAEL: Judge, for the record, I've signed it as
6 well.

7 THE COURT: Any questions, Mr. Larson?

8 THE DEFENDANT: No, sir.

9 THE COURT: And this is what you wish to do?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: I'll accept the waiver. And this is your
12 signature on the document?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: I'll accept the waiver and will order the
15 Information filed as the charging document in this case.

16 Mr. Michael, how do you plead to the charge in this case?
17 Or I'm sorry. Mr. Larson.

18 MR. MICHAEL: Not guilty.

19 THE COURT: Mr. Larson, how do you plead to the charge
20 in this case?

21 THE DEFENDANT: I plead guilty, sir.

22 THE COURT: Before I can accept your plea of guilty, I
23 must determine that it is made voluntarily, with an
24 understanding of the nature of the charge and the consequences
25 of your plea. By offering to plead guilty, you do give up some

1 of your constitutional rights, and that giving up must be an
2 intentional giving up of rights and privileges that you now
3 have.

4 Please understand that I need not accept your plea of
5 guilty unless satisfied of your guilt and that you fully
6 understand your rights. In order to do this, I must ask you
7 some questions.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Before I do, it's necessary that you
10 obligate yourself to tell the truth. Once having been sworn,
11 your answers to my questions will be subject to the penalties
12 of perjury, of making a false statement, or possibly contempt
13 of court if you do not answer truthfully.

14 Are you willing to accept the obligation to tell the truth?

15 THE DEFENDANT: Yes, sir, I am.

16 THE COURT: Swear the witness.

17 COURTROOM DEPUTY: Mr. Larson, raise your right hand.

18 (The defendant was duly sworn by the courtroom deputy.)

19 COURTROOM DEPUTY: Thank you. Be seated.

20 THE COURT: Mr. Larson, how old are you, sir?

21 THE DEFENDANT: 48.

22 THE COURT: And how much education do you have?

23 THE DEFENDANT: I went to Gustavus Adolphus College.
24 I finished four years. I'm one degree short of my bachelor's.

25 THE COURT: We're conversing in the English language?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Can you understand me?

3 THE DEFENDANT: Yes, sir, I can.

4 THE COURT: I can understand you.

5 THE DEFENDANT: (Nods head up and down.)

6 THE COURT: Have you taken any narcotic drugs,
7 medicine or pills, or drunk any alcoholic beverages in the past
8 24 hours?

9 THE DEFENDANT: No, sir.

10 THE COURT: Mr. Michael, do you have any question or
11 any doubt as to the defendant's competency to plead at this
12 time?

13 MR. MICHAEL: I do not, Judge.

14 THE COURT: Mr. Larson, just a few minutes ago we read
15 together the charge in this case, the Information. Do you
16 understand the nature and meaning of this charge?

17 THE DEFENDANT: Yes, I do, sir.

18 THE COURT: Have you told your lawyer everything you
19 know about this case?

20 THE DEFENDANT: Yes, I have.

21 THE COURT: Do you believe your lawyer is fully
22 informed about the facts and circumstances on which this charge
23 is based?

24 THE DEFENDANT: Yes, I do.

25 THE COURT: Has your lawyer fully informed counsel and

1 advised you on the nature and meaning of this charge?

2 THE DEFENDANT: Yes, he has.

3 THE COURT: Now, before you can be found guilty of
4 this charge, the United States must prove certain things or
5 elements, as we call them, and they must prove them beyond a
6 reasonable doubt to a jury of 12 individuals that we'll pick at
7 random. You and I will help select them, and then they must be
8 convinced beyond a reasonable doubt of your guilt and that you
9 committed these elements.

10 The elements for conspiracy to restrain trade, in violation
11 of Section 1 of the Sherman Act, are -- and they must be
12 proved, as I said, beyond a reasonable doubt -- one, that the
13 conspiracy, that is, the agreement or understanding described
14 in the Information was knowingly formed and was existing at or
15 about the time alleged, which was, as we recall, March 1, 2005,
16 until and at least July 17th, 2007, and that one of the
17 agreements or meetings or one of the incidents occurred here in
18 the Southern District of Ohio.

19 And the Southern District of Ohio is the southern half of
20 Ohio. If you would draw a line from the east to the west
21 corner just north of Columbus, and the land south of that would
22 be the Southern District of Ohio, to the Ohio River. Now,
23 Cincinnati, Hamilton County, Butler County, Hamilton city,
24 Lebanon city are all in the Southern District of Ohio, for your
25 information.

1 Further, the next one is that you knowingly became a member
2 of the conspiracy, agreement or understanding as charged and
3 that the conspiracy constituted an unreasonable restraint of
4 interstate commerce and that the offense was carried out in
5 part in the Southern District of Ohio within the five years
6 preceding the filing of the Information.

7 Now, do you understand that, if you plead guilty, you will
8 admit beyond a reasonable doubt that you did these elements or
9 things?

10 THE DEFENDANT: Yes, sir, I do.

11 THE COURT: And that you committed the facts that were
12 alleged and actions that were alleged in the Information?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Now, do you know what the maximum possible
15 penalty for this offense is?

16 THE DEFENDANT: I recall, I believe, 12 to 18 months.

17 Is that --

18 THE COURT: Well, you evidently have discussed the
19 matter with your attorney and you have jumped to the Guideline
20 determination.

21 THE DEFENDANT: I apologize.

22 THE COURT: That's all right. No, I'm glad to know
23 that you've got some target in your mind.

24 But so we understand each other, and since the Guidelines
25 are advisory only --

1 THE DEFENDANT: Yes, sir.

2 THE COURT: -- it's well you understand what the
3 maximum penalty is. And the maximum penalty is up to ten years
4 in prison; up to a million dollar fine, or two times the gross
5 pecuniary loss or gain; three years of supervised release; a
6 hundred dollar special assessment; and restitution.

7 Now, the importance of supervised release is this, that at
8 the time of sentencing, if you're sentenced to the
9 penitentiary, you will also be assigned a period of supervised
10 release. At the time of sentencing, conditions will be placed
11 on your conduct during the term of that supervised release. If
12 you should violate the terms of your supervised release, those
13 conditions, you could be returned to the penitentiary for a
14 period of time, which it could be as much as two years and,
15 under certain circumstances, even maybe longer. So that when
16 you're talking or thinking about what we're doing here today,
17 under the worst set of circumstances you might spend at
18 least -- or could spend 12 years in the penitentiary.

19 Do you understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Now, do you understand that, if I would so
22 choose, that after I accept your plea of guilty I could
23 sentence you to that maximum penalty?

24 THE DEFENDANT: Yes, I do.

25 THE COURT: Now, you are, from what you've told me,

1 aware that the Sentencing Guidelines apply to your case, and
2 they are a very important consideration that we must discuss
3 fully at the time of sentencing. However -- and I need to make
4 you aware that there is no provision for parole under the
5 Sentencing Reform Act. Do you understand?

6 THE DEFENDANT: I'm not sure I --

7 MR. MICHAEL: Could I have a moment, Your Honor?

8 THE COURT: Yes.

9 (Mr. Michael and the defendant confer privately.)

10 THE DEFENDANT: Mr. Michael explained it to me. I do
11 understand.

12 THE COURT: In other words, what happens now under the
13 law, that the sentence I impose is the sentence that you'll
14 serve, and the only respite would be time off for what good
15 behavior the Bureau of Prisons might give you.

16 THE DEFENDANT: Okay.

17 THE COURT: That you would earn.

18 And do you understand that, despite the Sentencing
19 Guidelines, that the Court can impose a sentence that is more
20 severe or less severe than the Guidelines?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And do you understand that, under certain
23 circumstances, either you or the United States may appeal the
24 sentence imposed?

25 THE DEFENDANT: Yes.

1 THE COURT: And there are other collateral
2 consequences, some of which are you might lose your right to
3 vote. You will lose the right to possess a firearm. You may
4 lose your obligation to serve on a jury duty or hold public
5 office.

6 Are you an American citizen?

7 THE DEFENDANT: Yes, sir, I am.

8 THE COURT: Please understand that, after you are
9 sentenced, you will have no right to withdraw your guilty plea.

10 THE DEFENDANT: I understand.

11 THE COURT: Now, the obligation that we have under the
12 instructions from Congress, which are set forth in Title 18,
13 United States Code, Section 3553 are these, or is this,
14 really: that it's our duty, or my duty with your help, to
15 determine a sentence that is sufficient but not greater than
16 necessary to vindicate the desires of Congress in the
17 sentencing which are set forth in this section.

18 One of those items is the Sentencing Guidelines, which are
19 advisory. The other considerations that we must discuss and
20 determine are the nature and circumstances of the offense, your
21 history and characteristics, the need for the sentence imposed
22 to reflect the seriousness of the offense, to promote respect
23 for the law, and to provide just punishment for the offense, to
24 afford adequate deterrence to criminal conduct generally, to
25 protect the public from further crimes you may commit, to

1 provide you with any needed educational or vocational training,
2 medical care, or other correctional treatment, in the most
3 effective manner, the kinds of sentences available and the
4 kinds of sentences that are provided by the applicability of
5 the Sentencing Guidelines.

6 Now, do you understand that we will consider all those
7 elements at the time of sentencing and that your sentence, the
8 bottom line, that it must be sufficient but not greater than
9 necessary to accomplish the purpose Congress has set forth for
10 us to follow and to achieve?

11 THE DEFENDANT: (Nods head up and down.)

12 THE COURT: Now, since you know the maximum penalty
13 for the offense, the considerations that will be deciding
14 factors in the sentence, do you still wish to plead guilty?

15 THE DEFENDANT: Yes, sir, I do.

16 THE COURT: Now, do you understand that if I accept
17 your plea of guilty, I may or may not place you on probation?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: I advise you that, under the Constitution
20 and laws of the United States, you have the right to plead not
21 guilty. You have the right to be tried by a jury, and at such
22 a speedy and public trial you would have the right to the
23 assistance of a lawyer, the right to confront and cross-examine
24 witnesses against you, and the right not to be compelled to
25 incriminate yourself.

1 At such trial you would be presumed innocent until such
2 time, if ever, as the government established your guilt by
3 legal evidence beyond a reasonable doubt. At such trial you
4 would be entitled to compulsory process, to call witnesses on
5 your behalf.

6 Do you understand --

7 THE DEFENDANT: Yes, I do.

8 THE COURT: -- that if you plead guilty, you give up
9 all these rights that I have mentioned?

10 THE DEFENDANT: Yes, I do.

11 THE COURT: Do you understand that if you plead
12 guilty, there will not be a further trial of any kind in your
13 case, so that by pleading guilty you are giving up the right to
14 a trial?

15 THE DEFENDANT: Yes, I do.

16 THE COURT: Do you understand that if your plea of
17 guilty is accepted, the judge can impose the same penalty as
18 though you pled not guilty, stood trial, and had been convicted
19 by a jury?

20 THE DEFENDANT: Yes, I do.

21 THE COURT: If you plead guilty, do you understand
22 that there will also have to -- you will also have to give up
23 your right not to incriminate yourself since I will have to ask
24 questions about what you did in order to satisfy me that you
25 are guilty as charged and you will have to acknowledge your

1 guilt?

2 THE DEFENDANT: Yes.

3 THE COURT: Are you willing to give up your right to a
4 trial and the other rights I have just discussed?

5 THE DEFENDANT: Yes, sir, I am.

6 THE COURT: Proper plea agreements are permissible.

7 However, you and the lawyers have a duty to state into the
8 record the terms of any plea agreement and any agreement that
9 you may have.

10 It's my understanding that you have entered into a plea
11 agreement in this case; is that correct?

12 THE DEFENDANT: That's correct, sir.

13 THE COURT: I'm going to ask Mr. Culum to put the plea
14 agreement into the record. Please follow along as he does so,
15 because after he has completed his presentation, I will ask you
16 some questions about the plea agreement.

17 THE DEFENDANT: Okay.

18 THE COURT: Proceed, sir.

19 MR. CULUM: Thank you, Your Honor.

20 The plea agreement is entitled "United States of America v.
21 Frank G. Larson." Preliminary words: The United States of
22 America and Frank G. Larson, the defendant, hereby enter into
23 the following plea agreement pursuant to Rule 11(c)(1)(B) of
24 the Federal Rules of Criminal Procedure:

25 Paragraph 1, the Rights Of Defendant. The defendant

1 understands his rights:

2 (a) to be represented by an attorney;

3 (b) to be charged by Indictment;

4 (c) to plead not guilty to any criminal charge brought
5 against him;

6 (d) to have a trial by jury, at which he would be presumed
7 not guilty of the charge and the United States would have to
8 prove every essential element of the charged offense beyond a
9 reasonable doubt for him to be found guilty;

10 (e) to confront and cross-examine witnesses against him and
11 to subpoena witnesses in his defense at trial;

12 (f) not to be compelled to incriminate himself;

13 (g) to appeal his conviction, if he is found guilty; and

14 (h) to appeal the imposition of sentence against him.

15 Agreement To Plead Guilty And Waive Certain Rights.

16 Paragraph 2. The defendant knowingly and voluntarily
17 waives the rights set out in paragraph 1(b) through (h) above.
18 The defendant also knowingly and voluntarily waives the right
19 to file any appeal, any collateral attack, or any other writ or
20 motion including, but not limited to, an appeal under 18 U.S.C.
21 Section 3742, or a motion under 28 U.S.C. Section 2241 or 2255,
22 that challenges the sentence imposed by the Court if that
23 sentence is consistent with the Guideline calculations
24 described in paragraph 8 of this plea agreement. This
25 agreement does not affect the rights or obligations of the

1 United States as set forth in 18 U.S.C. Section 3742(b).
2 Nothing in this paragraph, however, shall act as a bar to the
3 defendant perfecting any legal remedies he may otherwise have
4 on appeal or collateral attack respecting the claims of
5 ineffective assistance of counsel or prosecu-- prosecutorial
6 misconduct.

7 I have difficulty saying that.

8 Pursuant to Federal Rule of Criminal Procedure 7(b), the
9 defendant will waive indictment and plead guilty at an
10 arraignment to a one-count Information to be filed in the
11 United States District Court for the Southern District of Ohio.
12 The Information will charge the defendant with participating in
13 a conspiracy to suppress and eliminate competition by agreeing
14 with other packaged-ice manufacturers to allocate customers in
15 southeastern Michigan and the Detroit, Michigan, metropolitan
16 area, beginning at least as early as March 1st, 2005, and
17 continuing until at least July 17, 2007, in violation of the
18 Sherman Antitrust Act, 15 U.S.C. Section 1.

19 Paragraph 3. The defendant, pursuant to the terms of this
20 plea agreement, will plead guilty to the criminal charge
21 described in paragraph 2 above and will make a factual
22 admission of guilt to this Court, in accordance with Federal
23 Rules of Criminal Procedure 11, as set forth in paragraph 4
24 below. The United States agrees that, at the arraignment, it
25 will stipulate to the release of the defendant on his personal

1 recognition, pursuant to 18 U.S.C. Section 3142, pending the
2 sentencing hearing in this case.

3 Factual Basis For The Offense Charged.

4 Paragraph 4. Had this case gone to trial, the United
5 States would have presented evidence sufficient to prove the
6 following facts:

7 (a) For purposes of this plea agreement, the relevant
8 period is that period beginning at least as early as March 1st,
9 2005, and continuing until at least July 17th, 2007. During
10 the relevant period, the defendant was employed by Artic
11 Glacier International Inc., "Artic Glacier," a corporation
12 organized and existing under the laws of the state of Delaware,
13 which does business in multiple states, with its principal
14 place of business in St. Paul, Minnesota. During the relevant
15 period, the defendant was most recently employed by Artic
16 Glacier as its executive vice president of operations. During
17 the relevant period, Artic Glacier was a producer of packaged
18 ice in multiple states and was engaged in the sale of packaged
19 ice. Packaged ice is marketed as a high-grade ice for human
20 consumption and is sold in varying sizes, blocks, big bags, and
21 small bags.

22 (b) During the relevant period, the defendant participated
23 in a conspiracy to allocate customers of packaged ice sold in
24 southeastern Michigan and the Detroit, Michigan, metropolitan
25 area. In furtherance of the conspiratorial activity, the

1 defendant or his subordinates engaged in discussions with
2 representatives of other packaged-ice producers. During these
3 discussions, agreements were reached to allocate customers of
4 packaged ice to be sold in southeastern Michigan and the
5 Detroit, Michigan, metropolitan area.

6 (c) During the relevant period, Arctic Glacier's sales of
7 packaged ice affecting customers totaled over \$10 million.

8 (d) During the relevant period, packaged ice sold by one or
9 more of the conspirator firms, and equipment and supplies
10 necessary to the production and distribution of packaged ice,
11 as well as payments for packaged ice, traveled in interstate
12 commerce. The business activities of the defendant's employer
13 and its co-conspirators in connection with the production and
14 sale of packaged ice affected by this conspiracy were within
15 the flow of, and substantially affected, interstate trade and
16 commerce.

17 (e) Acts in furtherance of this conspiracy were carried out
18 within the Southern District of Ohio, Western Division. At
19 least one of the conspiratorial discussions described above
20 took place in Cincinnati, Ohio, which is located within the
21 Southern District of Ohio.

22 Possible Maximum Sentence.

23 Paragraph 5. The defendant understands that the statutory
24 maximum penalty which may be imposed against him upon
25 conviction for a violation of Section 1 of the Sherman Act is:

(a) a term of imprisonment for ten years, 15 U.S.C. Section 1;

(b) a fine in an amount equal to the greatest of (1) 1 million, (2) twice the gross pecuniary gain the conspirators derived from the crime, or (3) twice the pecuniary loss caused to the victims of the crime by the conspirators, 15 U.S.C. Section 1, 18 U.S.C. Section 3571(b) and (d); and

(c) a term of supervised release of three years following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be required to serve up to two years in prison, 18 U.S.C. Section 3559(a)(3), 18 U.S.C. Section 3583(b)(2) and (e)(3), and the United States Sentencing Guidelines Section 5D1.2(a)(2).

Paragraph 6. In addition, the defendant understands that:

(a) pursuant to U.S.S.G. 5E1.1 or 18 U.S.C. Section 3663(a)(3) or 3583(d), the Court may order him to pay restitution to the victims of the offense; and

(b) pursuant to 18 U.S.C. Section 3013(a)(2)(A), the Court is required to order the defendant to pay a \$100 special assessment upon conviction for the charged crime.

The Sentencing Guidelines.

Paragraph 7. The defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in effect on the day of sentencing, along with other factors set forth in 18 U.S.C. Section

1 3553(a), in determining and imposing sentence. The defendant
2 understands that the Guidelines determination will be made by
3 the Court by a preponderance of the evidence standard. The
4 defendant understands that although the Court is not ultimately
5 bound to impose a sentence within the applicable Guidelines
6 range, its sentence must be reasonable based upon consideration
7 of all relevant sentencing factors set forth in 18 U.S.C.
8 Section --

9 THE COURT: I want to just interrupt then. The duty
10 of the District Court, which is me, is to impose a sentence
11 that is sufficient but not greater than necessary to effect the
12 terms of the statute. It's up to the Sixth Circuit Court of
13 Appeals to determine whether that sentence is reasonable.

14 THE DEFENDANT: Okay.

15 THE COURT: So I point that out now so that you'll
16 understand the purpose that you and I have at the time of
17 sentencing.

18 THE DEFENDANT: Okay.

19 THE COURT: Proceed.

20 MR. CULUM: Thank you, Your Honor.

21 Pursuant to United States Sentencing Guideline Section
22 1B1.8, the United States agrees that self-incriminating
23 information that the defendant provides to the United States
24 pursuant to this plea agreement will not be used to increase
25 the volume of affected commerce attributable to the defendant

1 or in determining the defendant's applicable Guideline range,
2 except to the extent provided in United States Sentencing
3 Guideline Section 1B1.8 (b) .

4 Paragraph 8. Pursuant to United States Sentencing
5 Guideline Section 6B1.4, the United States and the defendant
6 enter into the following stipulations:

7 (a) The base offense level for the offense to which the
8 defendant is pleading guilty, as established by the United
9 States Sentencing Guidelines Section 2R1.1(a) , is 12.

10 (b) The volume of commerce attributable to the defendant
11 within the meaning of the United States Sentencing Guideline
12 Section 2R1.1(b) (2) is more than 10 million but less than 40
13 million, which increases the offense level by four.

14 (c) For purposes of United States Sentencing Guidelines
15 Section 3E1.1, a three-level reduction of the offense level for
16 the defendant's acceptance of responsibility is appropriate.
17 However, should the United States obtain or receive additional
18 evidence or information prior to sentencing that, in its sole
19 discretion, it determines to be credible and materially in
20 conflict with this stipulation, then the United States shall no
21 longer be bound by this stipulation.

22 (d) Based on the foregoing, defendant's adjusted offense
23 level for the offense to which he is pleading guilty is 13.
24 The Guidelines incarceration range for offense level 13 is 12
25 to 18 months' imprisonment. The defendant's appropriate

1 Guidelines fine range is governed by 2R1.1(c)(1).

2 THE COURT: I think that is really (c)(1); it's not
3 (c)(1).

4 MR. CULUM: You may be correct, Your Honor.

5 THE COURT: I am.

6 MR. CULUM: You are correct, Your Honor. Excuse me.

7 I am incorrect; you are correct. I apologize for the mistake.

8 Okay. Paragraph 9. Sentencing Agreement. The defendant
9 understands that the sentence to be imposed on him is within
10 the sole discretion of the sentencing judge. The United States
11 cannot and does not make any promises or representations as to
12 what sentence he will receive and is free to recommend any
13 specific sentence to the Court. However, the United States
14 will inform the probation office and the Court of (a) this
15 agreement; (b) the nature and extent of the defendant's
16 activities with respect to this case and all other activities
17 of the defendant which the United States deems relevant to
18 sentencing; and (c) the nature and extent of the defendant's
19 cooperation with the United States. In so doing, the United
20 States may use any information it deems relevant, including
21 information provided by the defendant both prior and subsequent
22 to the signing of this agreement. The United States reserves
23 the right to make any statement to the Court or the probation
24 office concerning the nature of the criminal violation charged
25 in the Information, the participation of the defendant therein,

1 and any other facts or circumstances that it deems relevant.
2 The United States also reserves the right to comment on or to
3 correct any representation made by or on behalf of the
4 defendant, and to supply any other information that the Court
5 may require.

6 10. If the United States determines that the defendant has
7 provided substantial assistance in any investigation or
8 prosecution in the packaged-ice industry, and has otherwise
9 fully complied with all the terms of this plea agreement, it
10 will file a motion, pursuant to United States Sentencing
11 Guideline 5K1.1, advising the sentencing judge of all relevant
12 facts pertaining to that determination and requesting the Court
13 to sentence the defendant in light of the factors set forth in
14 United States Sentencing Guideline Section 5K1.1(a) (1) through
15 (5). The defendant acknowledges that the decision whether he
16 has provided substantial assistance in any investigation or
17 prosecution of the packaged-ice industry and has otherwise
18 complied with the terms of this plea agreement is within the
19 sole discretion of the United States. It is understood that,
20 should the United States determine that the defendant has not
21 provided substantial assistance in any investigation or
22 prosecution of the packaged-ice industry, or should the United
23 States determine that the defendant has violated any provision
24 of this plea agreement, such a determination will release the
25 United States from any obligation to file a motion pursuant to

1 United States Section 5K1.1, but will not entitle the defendant
2 to withdraw his guilty plea once it has been entered. The
3 defendant further understands that, whether or not the United
4 States files a motion pursuant to United States Sentencing
5 Guideline 5K1.1, the sentence to be imposed on him remains
6 within the sole discretion of the sentencing judge. To enable
7 the Court to have the benefit of all the relevant sentencing
8 information, the United States may request that sentencing be
9 postponed until his cooperation is complete.

10 Paragraph 11. The parties agree that they are not aware at
11 this time of any aggravating or mitigating circumstances of a
12 kind, or to a degree, not adequately taken into consideration
13 by the United States Sentencing Commission in formulating the
14 Sentencing Guidelines justifying a departure pursuant to United
15 States Sentencing Guideline Section 5K2.0.

16 Paragraph 12. In light of the availability of civil causes
17 of actions available pursuant to 15, United States Code,
18 Section 15, the United States agrees it will not seek a
19 restitution order for the offense charged in the Information.

20 Paragraph 13. The defendant understands that the Court
21 will order him to pay a \$100 special assessment pursuant to 18
22 U.S.C. Section 3013(a)(2)(A) in addition to any fine imposed.

23 Paragraph 14. The defendant understands that, as provided
24 in Federal Rules of Criminal Procedure 11(c)(3)(B), if the
25 Court does not impose a sentence consistent with either party's

1 sentencing recommendation, he nevertheless has no right to
2 withdraw his plea of guilty.

3 The Defendant's Cooperation.

4 Paragraph 15. The defendant will cooperate fully and
5 truthfully with the United States in the prosecution of this
6 case, the conduct of the current federal investigation of
7 violations of federal antitrust and related criminal laws
8 involving the sale of packaged ice in the United States, and
9 any other federal investigation resulting therefrom, and any
10 litigation or other proceeding arising or resulting from any
11 such investigation to which the United States is a party. The
12 ongoing, full, and truthful cooperation of the defendant shall
13 include, but not be limited to:

14 (a) producing all non-privileged documents, including
15 claimed personal documents, and other materials, wherever
16 located, in the possession, custody, or control of the
17 defendant, requested by attorneys and agents of the United
18 States;

19 (b) making himself available for interviews, not at the
20 expense of the United States, upon the request of attorneys and
21 agents of the United States;

22 (c) responding fully and truthfully to all inquiries of the
23 United States in connection with any federal proceeding,
24 without falsely implicating any person or intentionally
25 withholding any information, subject to the penalties of making

1 false statement, 18 U.S.C. Section 1001, and obstruction of
2 justice, 18 U.S.C. Section 1503, et sequentes;

3 (d) otherwise voluntarily providing the United States with
4 any non-privileged material or information not requested in (a)
5 through (c) of this paragraph, that he may have that is related
6 to any federal proceeding; and

7 (e) when called upon to do so by the United States in
8 connection with any federal proceeding, testifying in grand
9 jury, trial, and other judicial proceedings, fully, truthfully,
10 and under oath, subject to the penalties of perjury, making
11 false statements or declarations in grand jury or court
12 proceedings, contempt, and obstruction of justice.

13 The Government's Agreement.

14 Section 16. Subject to the full, truthful, and continuing
15 cooperation of the defendant, as described in paragraph 15 of
16 this plea agreement, and upon the Court's acceptance of the
17 guilty plea called for by this plea agreement and imposition of
18 this sentence as provided by the Court, the United States will
19 not bring further criminal charges against the defendant for
20 any act or offense committed before the date of this plea
21 agreement that was undertaken in furtherance of an attempted or
22 completed antitrust conspiracy involving the sale of packaged
23 ice or undertaken in connection with any investigation of such
24 a conspiracy, the "relevant offense." The non-prosecution
25 terms of this paragraph do not apply to civil matters of any

1 kind, to any violation of federal tax or security laws, or to
2 any crime of violence.

3 Paragraph 17. The defendant understands that he may be
4 subject to administrative action by federal or state agencies
5 other than the United States Department of Justice, Antitrust
6 Division, based upon the conviction resulting from this plea
7 agreement, and that this plea agreement in no way controls
8 whatever action, if any, other agencies may take. However, the
9 United States agrees that, if requested, it will advise the
10 appropriate officials of any governmental agency considering
11 such administrative action of the fact, manner, and extent of
12 cooperation of the defendant as a matter for that agency to
13 consider before determining what administrative action, if any,
14 to take.

15 Representation By Counsel.

16 Paragraph 18. The defendant has reviewed all legal and
17 factual aspects of this case with his attorney and is fully
18 satisfied with his attorney's legal representation. The
19 defendant has thoroughly reviewed this plea agreement with his
20 attorney and has received satisfactory explanations from his
21 attorney concerning each paragraph of this plea agreement and
22 alternatives available to defendant other than entering into
23 this plea agreement. After conferring with his attorney and
24 considering all available alternatives, the defendant has made
25 a knowing and voluntary decision to enter into this plea

1 agreement.

2 Voluntary Plea.

3 The defendant's decision to enter into this plea agreement
4 and to tender a plea of guilty is freely and voluntarily made,
5 is not the result of force, threats, assurances, promises or
6 representations other than the representations contained in
7 this plea agreement. The United States has made no promises or
8 representations to the defendant as to whether the Court will
9 accept or reject the representations contained within this plea
10 agreement.

11 Violation Of Plea Agreement.

12 Paragraph 20. The defendant agrees that, should the United
13 States determine in good faith, during the period that any
14 federal proceeding is pending, that the defendant has failed to
15 provide full and truthful cooperation, as described in
16 paragraph 15 of this plea agreement, or has otherwise violated
17 any provision of this plea agreement, the United States will
18 notify the defendant or his counsel in writing by personal or
19 overnight delivery or facsimile transmission and may also
20 notify his counsel by telephone of its intention to void any of
21 its obligations under this plea agreement, except its
22 obligations under this paragraph, and the defendant shall be
23 subject to prosecution for any federal crime of which the
24 United States has knowledge including, but not limited to, the
25 substantive offenses related to the investigations resulting in

1 the plea agreement. The defendant agrees that, in the event
2 that the United States is released from its obligations under
3 this plea agreement and brings criminal charges against the
4 defendant for any relevant offense, the statute of limitations
5 period for such offense shall be tolled for the period between
6 the date of the signing of this plea agreement and six months
7 after the date the United States gave notice of its intent to
8 void its obligations under this plea agreement.

9 Paragraph 21. The defendant understands and agrees that in
10 any further prosecution of him resulting from the release of
11 the United States from its obligations under this plea
12 agreement based on defendant's violation of this plea
13 agreement, any documents, statements, information, testimony,
14 or evidence provided by him to attorneys or agents of the
15 United States, federal grand juries, or courts, and any leads
16 derived therefrom, may be used against him in any such further
17 prosecution. In addition, the defendant unconditionally waives
18 his right to challenge the use of such evidence in any such
19 further prosecution, notwithstanding the protections of Federal
20 Rule of Evidence 410.

21 The Entirety Of The Agreement.

22 Paragraph 22. This plea agreement constitutes the entire
23 agreement between the United States and the defendant
24 concerning the disposition of the criminal charge in this case.
25 This plea agreement cannot be modified except in writing,

1 signed by the United States and the defendant.

2 Paragraph 23. The undersigned attorneys for the United
3 States have been authorized by the Attorney General of the
4 United States to enter this plea agreement on behalf of the
5 United States.

6 The plea agreement is signed, is dated September 11th,
7 2009. It is signed by Mr. Larson and Mr. Michael and as well
8 by me.

9 THE COURT: Mr. Larson, is that your signature at the
10 end of the plea agreement?

11 THE DEFENDANT: Yes, it is.

12 THE COURT: Would you read me the last -- or the
13 paragraph 22 of the plea agreement.

14 THE DEFENDANT: "This plea agreement constitutes the
15 entire agreement between the United States and the defendant
16 concerning the disposition of the criminal charge in this case.
17 This plea agreement cannot be modified except in writing,
18 signed by the United States and the defendant."

19 THE COURT: The agreements that you've made in this
20 plea agreement, do you have any questions about them?

21 THE DEFENDANT: No, sir, I don't.

22 THE COURT: And you're under oath. Do you agree,
23 then, that your agreements in this plea agreement are true and
24 correct?

25 THE DEFENDANT: Yes, they are.

1 THE COURT: Aside from the plea agreement, has anyone
2 made any promise to you of any kind that induced you to plead
3 guilty?

4 THE DEFENDANT: No, they did not.

5 THE COURT: Aside from the plea agreement, which we've
6 been discussing, has any agent or officer of the United States
7 or any government, has any lawyer, any lawyer, has anyone
8 promised or even suggested that you'll receive a lighter
9 sentence or any other form of leniency if you plead guilty?

10 THE DEFENDANT: No, they have not.

11 THE COURT: Have any threats been made that induced
12 you to plead guilty?

13 THE DEFENDANT: No, sir.

14 THE COURT: Is it fair, then, for me to believe that
15 this decision of yours to plead guilty is your voluntary act
16 and deed?

17 THE DEFENDANT: Yes, it is.

18 THE COURT: Do you have any questions at this time?

19 THE DEFENDANT: No, sir, I don't.

20 THE COURT: Is it fair for me to believe, then, that
21 you're pleading guilty here today with a full understanding of
22 the nature of the charge against you and the consequences of
23 that plea of guilty?

24 THE DEFENDANT: Yes, that's true.

25 THE COURT: Would you turn to page 7 of the -- or no,

1 it's 3 of the plea agreement, please.

2 Now, would you paraphrase what happened here. We've
3 already gone through the record that you admit these facts to
4 be the truth that's set forth here in the fourth paragraph. Do
5 you see?

6 THE DEFENDANT: Yes.

7 THE COURT: Now, would you tell me what happened.

8 THE DEFENDANT: Yes, sir. I was aware of
9 conversations between Arctic employees and competitors
10 regarding customers that either we serviced or they serviced in
11 the Michigan marketplace. And customers would contact us
12 either regarding the competitor's service and ask us to come
13 see them, to inquire about servicing.

14 There were times that Arctic employees would contact the
15 competitor and give them a heads-up and give them a
16 notification that a customer called and give them a timeline,
17 or give them one or two weeks to say, "Here. This customer
18 called. Here's the issue. Fix it or we're going to take the
19 customer."

20 I was aware of those conversations. I participated in one
21 of those conversations. I shared with my -- with senior
22 management at Artic Glacier that these types of conversations
23 were taking place.

24 THE COURT: And did at least one of the agreements
25 occur down here in Cincinnati?

1 THE DEFENDANT: I believe it was by phone with someone
2 here in Cincinnati.

3 THE COURT: Cincinnati was involved?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Mr. Michael, has your investigation into
6 the facts of this case established the truth of the factual
7 basis for the offense charged?

8 MR. MICHAEL: Yes, Judge.

9 THE COURT: Mr. Larson, is it fair, then, for me to
10 believe that you're pleading guilty here today because you are,
11 in fact, guilty of a violation of the Sherman Antitrust Act,
12 Section 1?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Mr. Culum, is there anything further that
15 I should discuss with the defendant before I make my findings
16 in the matter?

17 MR. CULUM: No, Your Honor. We just would like the
18 Court to know that he has been cooperating, we fully expect him
19 to continue to cooperate, and we have nothing further to say.
20 But he has been very cooperative and has been very forthright
21 with his participation and acknowledgment of the conduct that
22 he was involved in.

23 THE COURT: Mr. Michael, anything you wish the Court
24 to discuss with the defendant or you wish to put on the record
25 before I make my findings?

1 MR. MICHAEL: No, Judge. I believe Mr. Larson fully
2 understands what's going on. I've discussed all of the
3 relevant sections of the plea agreement with him. We have
4 provided to him all of the statutory cites contained within the
5 plea agreement and gone over all of those. It's my
6 understanding that he fully appreciates his actions today, as
7 well as his cooperation with the Department of Justice that has
8 occurred in the past and is anticipated to occur in the future.

9 THE COURT: Mr. Larson, any questions at this time?

10 THE DEFENDANT: No, sir.

11 THE COURT: The trial judge has observed the
12 appearance and responsiveness of Mr. Larson, the defendant, in
13 giving his answers to the questions asked. Based on such
14 observation and the answers given, the trial judge is satisfied
15 that the defendant is in full possession of his faculties. He
16 is not suffering from any apparent physical or mental illness.
17 He is not under the influence of narcotics or alcohol. He
18 understands that Title 18, Section 3553 applies to his case and
19 will be determinative of the sentence in his case that is to be
20 sufficient but not greater than necessary to accomplish the
21 purposes set forth by Congress in that section. He understands
22 that the Sentencing Guidelines are an important element in that
23 determination but they are advisory only, and the Court may
24 sentence the defendant either greater than or less than those
25 Guideline determinations.

1 He understands the proceeding in which he is engaged. He
2 understands the nature and meaning of the charge and the
3 consequences of his plea of guilty, and he is aware of all plea
4 negotiations undertaken on his behalf.

5 Do you have any questions about any of these findings?

6 THE DEFENDANT: No, sir.

7 THE COURT: The trial judge therefore finds that the
8 plea has been made voluntarily with understanding of the nature
9 of the charge and the consequence of such plea. I will accept
10 your plea of guilty and enter a judgment of guilty to the
11 charge conspiracy to restrain trade, in violation of 15, United
12 States Code, Section 1, the Sherman Antitrust Act.

13 The matter will be referred to the United States Department
14 of Probation for a presentence investigation and report. The
15 Court will take the plea agreement under advisement. The Court
16 wishes to particularly point out the agreement not to seek
17 restitution in this matter. That is a determination that the
18 Court will take under advisement and consider at the time of
19 the sentencing to see whether it is impractical to order
20 restitution in this case. So I want you to understand that.

21 MR. CULUM: Your Honor, may I comment on that?

22 THE COURT: Yes.

23 MR. CULUM: I think you're aware, Your Honor, that
24 there is an ongoing civil litigation among the victims of the
25 potential crime and some of the corporate defendants, ongoing

1 in the Eastern District of Michigan. And I can get you the
2 cite, but there's an ongoing civil case trying to establish
3 what the proper restitution or recompense to the victims should
4 occur. So I wanted to make you aware of that.

5 THE COURT: I, of course, have been aware of that, and
6 I still stand on just what I said. If anybody is curious, I do
7 not accept plea agreements until I am satisfied they're proper.
8 I think I pointed that out here.

9 MR. CULUM: Yes.

10 MR. MICHAEL: Yes, Judge.

11 MR. CULUM: Yes, Your Honor.

12 THE COURT: All right. And hopefully we're always
13 reasonable, but that is not my job here. It's to be
14 sufficient, not reasonable.

15 The matter will be set for sentencing for Wednesday,
16 February the 3rd, at 10:00 AM, and, of course, the year is
17 2010. February 3rd, 2010, at 10:00 AM.

18 The probation department will provide a timeline for the
19 collection of information. It's designed to have the
20 information as complete as possible by the time of that
21 sentencing date, in fact, at least ten days before that
22 sentencing date, and so it is necessary that we follow along.

23 If, because of the complexities of the situation that we're
24 facing, if there are additional problems and it's already been
25 noted in the plea agreement, the Court will listen to reason,

1 not that I'll be reasonable, but I'll listen to reason. And
2 the purpose of that is so that, Mr. Larson, you and I can have
3 all the information on the table that we can consider so that I
4 can impose a just sentence in your case that is sufficient but
5 not greater than necessary. So your cooperation, which you've
6 already offered willingly to the United States, please offer
7 the same cooperation to the probation officer, which happens to
8 be part of the United States.

9 THE DEFENDANT: Absolutely.

10 THE COURT: The matter is before the Court now on the
11 establishment of a bond in this case. I have before me the
12 report of the pretrial services. Has the United States
13 received a copy of that report?

14 MR. CULUM: Yes, Your Honor.

15 THE COURT: And has the defense received a copy of the
16 report?

17 MR. MICHAEL: We have, Judge. We've read through it.
18 It's completely accurate except for one correction concerning
19 Mr. Larson's wife's maiden name.

20 THE COURT: Thank you.

21 MR. MICHAEL: Other than that, the substantive
22 information is accurate, Judge.

23 THE COURT: And what is that correction?

24 MR. MICHAEL: It is "Strand" as opposed to "Straub."

25 THE COURT: Strand?

1 MR. MICHAEL: Strand, yes, Judge.

2 THE COURT: Have you had a chance to read through it
3 too, Mr. Larson?

4 THE DEFENDANT: Yes, sir, I have.

5 THE COURT: And you agree with the accuracy?

6 THE DEFENDANT: Yes.

7 THE COURT: The Court will accept the recommendation,
8 hearing no objection.

9 MR. CULUM: No objection, Judge.

10 THE COURT: Since you already agreed to it in the plea
11 agreement --

12 MR. CULUM: Right.

13 THE COURT: -- but I give you that opportunity.

14 The Court will establish the bond in the case and will
15 establish the conditions, and the conditions while you're on
16 bond are these, Mr. Larson: .

17 That you shall not violate any federal, state or local law
18 while on release, that you immediately advise the Court,
19 defense counsel, and the U.S. Attorney in writing before any
20 change of address or telephone number, and that you appear in
21 court as required and surrender to serve any sentence imposed,
22 that you promise to appear in court as required and surrender
23 to serve any sentence imposed, that you surrender any passport
24 to the Clerk of Courts, that you obtain no new passport, that
25 you refrain from possessing a firearm, destructive device or

1 other dangerous weapon, you refrain from any excessive use of
2 alcohol, you refrain from the unlawful possession of narcotic
3 drug or other controlled substances unless prescribed by a
4 licensed medical practitioner. And the tangible matters that
5 must be complied with today is turning the passport in.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: I will hand you a copy of the bond. It
8 also has in there the advice of penalties and sanctions. I
9 will give that to you at this time and Mr. Michael will go over
10 them with you. And if you accept them and you understand what
11 you're dealing with, why, then we'll proceed.

12 (Mr. Michael and the defendant confer privately.)

13 MR. MICHAEL: Your Honor, for the record, Mr. Larson
14 has gone over it and signed the form.

15 THE COURT: Mr. Larson, I have in my hand the
16 acknowledgment of the defendant to the advice and penalty
17 sections on the bond. Is that your signature?

18 THE DEFENDANT: Yes, sir, it is.

19 THE COURT: And you accept the conditions of the bond
20 that I have imposed upon you?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you have any questions at this time?

23 THE DEFENDANT: No, sir, I don't.

24 THE COURT: Does the United States have anything
25 further they wish to add to the proceedings?

1 MR. CULUM: No, Your Honor.

2 THE COURT: Mr. Michael?

3 MR. MICHAEL: No, Judge. Thank you.

4 THE COURT: Any questions?

5 THE DEFENDANT: No.

6 THE COURT: I'll release the defendant after
7 processing. The matter is continued until February the 3rd at
8 10:00 o'clock, 2010.

9 Is there anything further from the United States?

10 MR. CULUM: No, Your Honor.

11 THE COURT: Anything further?

12 MR. MICHAEL: Just to alert the Court, we have Mr.
13 Larson's passport. We'll turn that in to the Clerk's office.
14 And he's been processed by the marshals prior to court this
15 morning.

16 THE COURT: Have a safe trip back home.

17 MR. MICHAEL: Thank you very much.

18 THE DEFENDANT: Thank you.

19 COURTROOM DEPUTY: All rise. This honorable court is
20 now in recess.

21 (Proceedings concluded at 11:10 AM.)

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1 C E R T I F I C A T E

2 I, Luke T. Lavin, RDR, CRR, the undersigned, certify
3 that the foregoing is a correct transcript from the record of
4 proceedings in the above-entitled matter.

5
6 s/Luke T. Lavin
7 Luke T. Lavin, RDR, CRR
Official Court Reporter

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